

EMRIC & DITHMAR
Suite 3000
300 South Wacker Drive
Chicago, IL 60606
Telephone: (312) 663-9800
Telecopier: (312) 663-9822

#1/Recon
8/22/02

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TRANSMITTAL SHEET**

OFFICIAL PAPER

To: Patent Examination Group 3671
Attn: Examiner Árpád Fábíán Kovács
Fax No.: 703/305-3597

FAX RECEIVED

From: James J. Hill, Esq.

AUG 22 2002
OFFICIAL GROUP 3600

Date: August 22, 2002

Re: Leo A. Metzger, "Sensor Arm for Combine Header"

No. of Pages (including this sheet): 6

Comments:

Sir:

Following is our Request for Reconsideration in follow-up with telephone conference with Examiner Thomas Will, Supervisory Patent Examiner.

Regards,

Jim Hill



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EMRICH & DITHMAR

ATTORNEYS AND COUNSELORS

SUITE 3000

300 SOUTH WACKER DRIVE
CHICAGO, ILLINOIS 60606, USA

TEL: 312-663-9800

FAX: 312-663-9822

PATENTS, TRADEMARKS, COPYRIGHTS
UNFAIR COMPETITION LAW
AND RELATED LITIGATION

PAUL L. BROWN
JAMES J. HILL
HARRY M. LEVY
ROBERT R. CALIRI
THOMAS E. HILL
JONATHAN J. KRIT

OFFICIAL PAPER

August 22, 2002

BOX NO FEE

Attn: Examiner Árpád Fábián Kovács
Commissioner for Patents
Washington, DC 20231

Re: Leo A. Metzger "Sensor Arm for Combine Header"
Serial No. 09/731,145
Filing Date: December 6, 2000
Our Case No. 1


Sir:

Transmitted for filing herewith are:

1. This transmittal letter and its duplicate;
2. Request for Reconsideration consisting of three pages.

Please charge any fees to Deposit Account No. 05-1060.

Cordially,


James J. Hill

JJH:dmm
Encls.

EMRICH & DITHMAR

ATTORNEYS AND COUNSELORS

SUITE 3000

300 SOUTH WACKER DRIVE

CHICAGO, ILLINOIS 60606, USA

TEL: 312-663-9800

FAX: 312-663-9822

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BOX NO FEE

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Commissioner for Patents
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James J. HillJJH:dmm
Encls.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Leo A. Metzger
Application No. : 09/731,145
Filing Date : December 6, 2000
Title : SENSOR ARM FOR COMBINE HEADER
Group Art Unit : 3671
Examiner : Árpád Fábíán Kovács
Docket No. : 1

FAX RECEIVED

AUG 22 2002

GROUP 3600

OFFICIAL

Honorable Commissioner for Patents
Box No Fee
Washington, DC 20231

OFFICIAL PAPER

CERTIFICATE OF SERVICE VIA FACSIMILE

I hereby certify that this correspondence is being faxed and addressed to Examiner Árpád Fábíán Kovács, Patent Examination Group 3671 at fax number 703/305-3597 at the office of Commissioner for Patents, Washington, D.C. 20231, on August 22, 2002.


Donna M. Mathis

REQUEST FOR RECONSIDERATION

Sir:

This is in response to the Office Action dated June 10, 2002 which is a Final Rejection. The Office Action was inadvertently mailed to the law firm of Calfee, Halter & Griswold, LLP who have been appointed as co-counsel in this matter. However, the undersigned has been and remains principal contact attorney.

This Request for Reconsideration follows telephone conferences with Examiner Thomas Will, Supervisory Patent Examiner, Group 3671, on August 6 and 7, 2002. This Request for Reconsideration constitutes a written record of the substance of the telephone interviews conducted with Examiner Will.

As pointed out at the first interview, there are two primary differences between the claims now pending and the prior art Jensen reference '016. The first advantage or aspect is: As the operating height of the combine header is reduced (i.e. the header is lowered), in Applicant's

invention, the Horizontal Length (as defined in Exhibits "A" and "B" attached to Amendment A) increases in Jensen, whereas it decreases in the claimed invention. This is clearly shown in Exhibit "B" and this is a significant advantage because the distance between a vertical plane passing through the axis of rotation of the sensing arm (i.e. the Horizontal Length) and the point of contact of the sensing arm is directly related to the response time of the sensing system. As the header lowers and this distance decreases, the response time becomes shorter at the very time it is needed – when the header is operating at a lower operating height. Just the opposite is true in Jensen – this distance increases in Jensen as the header is lowered. As shown in Exhibit "E" attached to Amendment A, the Horizontal Length in Metzger reduces progressively as the vertical operating height is reduced, whereas the corresponding Horizontal Length in Jensen increases as the operating height of the header increases.

Secondly, the size or magnitude of the response of Applicant's claimed structure also increases as the operating height of the header is decreased, for the same size obstruction experienced by the sensor arm. This is illustrated in Exhibit "F" attached to Amendment A. The vertical axis shows the operating height of the header, and the horizontal axis represents the degrees of rotation. As the header is lowered, the degrees of rotation (that is, the response of the sensing system) is uniformly greater for all lowered operating heights, in Metzger than it is in Jensen, given a common starting point (twelve inches in the illustrated example).

Claim 1 of the instant claims recites that the sensor arm comprises an operating portion for contacting the ground which is curved "at the segment of said operating portion adjacent said shaft". This is in contrast with the elongated, linear member 170 explicitly disclosed in the Jensen prior art. Moreover, claim 1 recites that the distance between a center of rotation of the shaft and the point at which the sensor arm contacts the ground "decreases as the operating height of said platform is

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decreased". As these facts disclose, Jensen increases the Horizontal Length as the header is lowered and, therefore, teaches away from the claimed apparatus which decreases the Horizontal Length, as defined, as the operating height of the header is decreased. The Examiner states that Applicant has mis-stated the contents of the Jensen reference because "the sensor arm considered is rotated as shown in fig 4." Nowhere does FIG. 4 support the Examiner's statement. In fact, the Jensen reference is clear, beginning on column 7, line 7:

The manner in which the sensor 38 is coupled to the valve 154 is shown in detail in Fig 4. As seen in Fig 4, the sensor 38 is comprised of an elongated member 170 pivotally mounted at one end thereof to the end 42 of the header housing 44 at the end 43 of the finger assembly at or adjacent the harvesting axis 98. The opposite end of the member 170 is pivotally coupled to one end of a rod 172 and has a curved feeler 174 extending therefrom into contact with the surface of the ground.

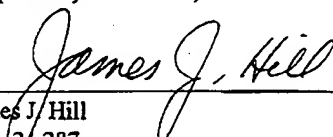
Nowhere is there any suggestion, express or inferred, that there is a dual curvature to the "curved feeler 174" of Jensen. Moreover, even if there were, the curved feeler 174 is so far removed from the axis of rotation (which is at the forward end of the member 170 where member 170 is connected to the housing 44) that it would make little or no difference.

It is the understanding of the undersigned, from the above-referenced conferences with Examiner Will, that all of the claims, upon reconsideration, are allowable, and that a Notice of Allowance will issue.

Favorable action is respectfully solicited.

Respectfully Submitted,

Date: August 22, 2002



James J. Hill
Reg. 24,287
EMRICH & DITHMAR
300 S. Wacker Dr., Ste. 3000
Chicago, IL 60606-6721
Telephone: (312) 663-9800
Telecopier: (312) 663-9822